



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

June 6, 2004

Colonel Timothy J. Gallagher
District Engineer, Alaska District
U. S. Army Corps of Engineers
Post Office Box 6898
Anchorage, Alaska 99506-6898

Re: POA-1981-383-V
Chevron Texaco

Attn: Dave Casey

Dear Colonel Gallagher:

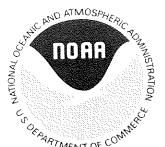
On April 30, 2004, the Corps of Engineers (Corps) issued a Cease and Desist Order to Chevron Texaco Environmental Management and L & J Enterprises for the unauthorized discharge of approximately 140,000 cubic yards of material below the high tide line (HTL) and mean high water (MHW) mark of Cook Inlet. The purpose of the work purportedly was to install water quality monitoring wells at the top of the bluff, preserve the integrity of the ground water recovery system, and protect and maintain the seawall. The National Marine Fisheries Service (NMFS) understands that approximately 1.1 acres of Essential Fish Habitat (EFH) in Cook Inlet has been filled by the discharge of material below the HTL.

The nearshore waters of Cook Inlet provide EFH for migrating and/or rearing Chinook salmon, coho salmon, pink salmon, sockeye salmon, and chum salmon. The most significant use of the project site by salmon is during the spring outmigration when smolts utilize the nearshore habitat of Cook Inlet. In addition, several species of groundfish have EFH in Cook Inlet, and of these, sculpins, Pacific cod, and walleye pollock would be the most likely to utilize the nearshore habitat of the project area.

NMFS offers the following comments specific to the Fish and Wildlife Coordination Act (FWCA) and EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act requires NMFS to make conservation recommendations to the action agency (Corps) regarding any action that would adversely affect EFH. The discharge of fill, as described above, has resulted in an adverse effect on EFH and anadromous fish resources.

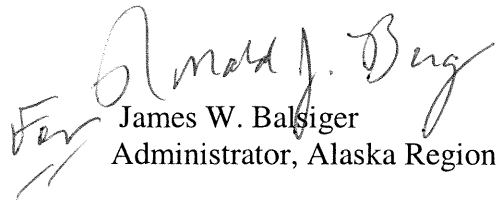
EFH Conservation Recommendations

- 1) NMFS recommends that the Corps order the removal of the unauthorized fill material, including all material placed below the HTL and MHW line, and relocation to an approved upland site.
- 2) NMFS recommends the Corps seek appropriate penalties for unauthorized fill and damage to 1.1 acres of EFH.



Please note that under section 305(b)(4) of the Magnuson-Stevens Act, the Corps is required to respond in writing within 30 days to NMFS recommendations. If the Corps does not make a decision within 30 days of receiving NMFS EFH Conservation Recommendations, the Corps should provide NMFS with a letter to that effect, and indicate when a full response will be provided. We look forward to working with you, and the applicant, to address the issues discussed above to minimize the effects of this project on living marine resources, including EFH. Brian Lance is the NMFS contact for this project, and can be reached at (907) 271-1301.

Sincerely,


James W. Balsiger
Administrator, Alaska Region

cc: USFWS - Lynnda Kahn
EPA - Phil North
DNR/OHMP - Lee McKinley
CZM - Dan Bevington
KPB - John Czarnezki